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HUMAN RIGHTS COMMITTEE

Forty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1062nd MEETING

Held at Headquarters, New York,
on Thursday, 11 April 1991, at 4.30 p.m.

Chairman: Mr. POCAR

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(a) Annual report submitted by the Human Rights Committee under article 45 of the Covenant

* The summary record of the first part (closed) of the meeting appears as document CCPR/C/SR.1062.

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The public meeting was called to order at 4.30 p.m.

ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FORTY-FIFTH SESSION

(a) ANNUAL REPORT SUBMITTED BY THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 45 OF THE COVENANT

(b) EFFECTIVE IMPLEMENTATION OF UNITED NATIONS INSTRUMENTS ON HUMAN RIGHTS AND EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO SUCH INSTRUMENTS

1. Mr. ANDO, Rapporteur, referring to General Assembly action on the effective implementation of United Nations human rights instruments and effective functioning of human rights bodies, reviewed the provisions of General Assembly resolutions 45/85, 45/135 and 45/155 and drew particular attention to the latter concerning the World Conference on Human Rights which was to be convened in 1993. The Committee must decide how best to constructively contribute to the World Conference and especially the preparations thereof.

2. The CHAIRMAN said that the immediate task before the Committee was to make suggestions regarding the agenda for the Conference. The Preparatory Committee for the World Conference would be meeting from 9 to 13 September and there would be time at the Committee's own July session to expand on the substance of its recommendations, which should be within the framework of the objectives of the World Conference outlined in resolution 45/155, paragraph 1. With regard in particular to paragraphs 1 (e) and (f), the Committee should stress in its agenda proposals that monitoring procedures, which included the activities of the treaty bodies, needed strengthening. The Committee should ensure that its activities were reflected in both the preparatory phase and the Conference itself, and do so in such a way that the Committee emerged strengthened from the Conference rather than with its effectiveness reduced.

3. Mr. EL-SHAFEI said that the Committee had been asked to consider two topics: (1) its possible contributions to the agenda of the World Conference on Human Rights, and (2) its involvement in the Conference itself. The objectives of the Conference had been set forth very clearly in paragraph 1 of General Assembly resolution 45/155, and any proposed agenda items should be closely related thereto. During its next session, the Committee might wish to devote one or two meetings to an exchange of views on proposed agenda items and on the specific role to be played by the Committee at the Conference; it could then submit a report on those views to the Preparatory Committee. The conclusions and recommendations of the report which had already been produced by the chairpersons of treaty bodies could also be submitted to the Preparatory Committee. Noting that paragraph 9 of resolution 45/155 referred specifically to the participation of members of human rights expert bodies in the work of the Preparatory Committee, he asked the Chairman whether he had any ideas on such participation.

4. Mr. WENNERGREN said that usefulness of the Conference would depend on the selection of agenda items that would serve to promote human rights on a practical level for the benefit of the world's 5 billion inhabitants. In his view, the most basic human right, and the object of greatest concern, was the right to liberty and security of person. If the Committee and the Conference could promote conditions under which universal respect for that right could eventually be achieved, that contribution would represent a great step forward in the history of humanity. A working plan for a comprehensive discussion of that particular human right should therefore be elaborated. It befitted the Committee to recommend such an agenda item and to do its utmost to strengthen the impact and enhance the constructiveness of the Conference.

5. Mr. PRADO VALLEJO said that because of its broad range of concerns and diversity of opinions, the Committee was not currently in a position to establish a concrete plan of action on the matter. It would be preferable to refer the question to the working group on article 40 of the Covenant. The working group could then present its views and recommendations regarding the Conference at the July session, at which time the Committee would be in a better position to take the necessary decisions.

6. Mr. SADI, while agreeing that the Committee could only make general comments about the Conference at the current stage, said that he had already identified three areas of discussion which he thought should be highlighted at the Conference: (1) the organic link between parliamentary democracy and human rights; (2) the close relationship between economic development and human rights; and (3) the need to promote ratification of the Covenant and of the Optional Protocol to the Covenant among countries which were not yet parties to those instruments, and to impress upon Governments which were already parties thereto the necessity of taking their obligations seriously.

7. The CHAIRMAN suggested that he should be authorized to submit the ideas expressed by the Committee members to the Under-Secretary-General responsible for preparing the agenda of the Preparatory Committee. In addition, he suggested that he should propose the inclusion of an item concerning possible means of strengthening the effectiveness of monitoring procedures of treaty bodies, including their financial aspects. Finally, he suggested that one or two meetings during the Committee's July 1991 session should be devoted to a full discussion of the issues that should be raised at the Conference, so that he would be prepared to present the Committee's conclusions and recommendations to the Preparatory Committee in September 1991.

8. It was so decided.

9. Mr. MAVROMMATIS noted that during the most recent session of the General Assembly, action in respect of the Human Rights Committee's work had been taken not only in the Third Committee, but also in the Fifth Committee, and expressed concern about the continued availability of Headquarters facilities to the Human Rights Committee.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

10. The CHAIRMAN drew attention to a list of countries which had submitted their periodic reports and of countries whose periodic reports were overdue. During the Committee's current session, contacts had been established with the Permanent Missions of 20 States whose reports were overdue to ensure that the issue would be brought to the attention of the Governments concerned. However, it had not been possible to establish contacts with the representatives of 14 other States whose reports were overdue.

11. He also noted that although the Committee had considered the second periodic reports of India and Panama at its current session, the third periodic reports of those States were already overdue. In accordance with past practice, he suggested that India and Panama should be given one more year (until 31 March 1992) to submit their third periodic reports.

12. It was so decided.

13. Mr. PRADO VALLEJO noted that according to the list of reports, the third periodic report of Iraq was more than one year overdue. Although periodic reports were normally required every five years, article 40, paragraph 1 (b) of the Covenant authorized the Committee to request reports from States parties at any time. That provision had been included in the Covenant to cover cases in which extreme circumstances were seriously affecting human rights; to date, the Committee had never felt it necessary to exercise its authority under that provision. However, Committee members could not close their eyes to the extreme violence, which amounted to attempted genocide, being perpetrated in Iraq. The Committee should therefore request, under article 40, paragraph 1 (b) of the Covenant, an immediate report from Iraq on the current human rights situation in its territory, which it could consider at its forthcoming session in July 1991.

14. Mr. MAVROMMATIS, while agreeing that an immediate report from Iraq was necessary, said that the Committee should request the submission of an updated version of the overdue report, rather than a separate special report.

15. Mr. LALLAH said that he wondered whether the Committee should make it clear that the report should include information on the territory that might for a brief period have been considered part of Iraq.

16. Mr. AGUILAR said that the time had come for the Committee to avail itself of article 40, paragraph 1 (b) of the Covenant. Although the Committee could reiterate its request for Iraq's regular periodic report, it should also request a special report under article 40, paragraph 1 (b) to underscore its deep concern about the situation.

17. Mr. WENNERGREN said it was unrealistic to expect Iraq to complete a report on its compliance with all the provisions of the Covenant by the Committee's July session. Since the right to liberty and security of person

(Mr. Wennergren)

was of paramount importance in light of the current situation in Iraq, the Committee should confine itself to requesting information on compliance with that provision of the Covenant.

18. The CHAIRMAN suggested that, in its request, the Committee should take into consideration recent events affecting the situation of human rights under the International Covenant on Civil and Political Rights, request the Government of Iraq to submit its third periodic report without any further delay in order that it might be considered at the next session of the Committee in July 1991, and further request that the report should contain detailed information about the impact of the aforesaid events on the rights protected under the relevant articles of the Covenant.

19. Mrs. HIGGINS fully supported the proposal introduced by Mr. Prado Vallejo. The Committee's duties under the Covenant were all the more important as other United Nations bodies had stated that their ability to take action with regard to human rights in Iraq was restricted. It was immaterial whether the Committee called for a special report or for the regular report which was already overdue. However, if the Committee was to consider the Iraqi report in July 1991, it should decide whether it wished to address the general concerns raised by the State party's previous report or the current anxieties regarding the situation of religious and ethnic minorities. In the latter case, the Committee's request would have to be specific. Furthermore, if information was requested concerning a wide range of issues, it was possible that no report at all would be forthcoming.

20. She had difficulty with the phrase "aforesaid events", as the State party might reply that, since it had been invaded, it could not guarantee any human rights. She would prefer a specific request for a report on matters arising under articles 6, 7, 9 and 27 of the Covenant, with special reference to the situation of ethnic and religious minorities.

21. She did not feel that the request should contain a reference to Kuwait under Iraqi occupation for it would be wrong to imply that Kuwait had been under Iraqi jurisdiction at any time.

22. Mr. MYULLERSON, supporting the proposal made by Mr. Prado Vallejo, said that the Committee should explicitly request information concerning not only the impact of recent events, but also of current events, as grave human rights violations were occurring in Iraq even as he spoke.

23. Ms. CHANET said that she, too, supported the proposal. She agreed with Mrs. Higgins with regard to the disadvantage of referring to "aforesaid events" and the inappropriateness of any reference to Kuwait. With regard to Mrs. Higgins' suggestion that specific articles of the Covenant should be mentioned, she felt that the State party should not be given an excuse to concentrate on selected provisions while ignoring others.

24. Mr. AGUILAR said that he supported the suggestion made by Mrs. Higgins and Mr. Wennergren with regard to mentioning specific articles of the Covenant. Members of the Committee should have some latitude to raise questions on the subject of Kuwait, since Kuwait had indeed been under the de facto jurisdiction of Iraqi troops at one time.

25. Mr. DIMITRIJEVIC said that, if the Committee adopted the formula put forward by the Chairman it would be precluded from asking the State party to concentrate on vital provisions of the Covenant. It was highly improbable that any report would be submitted on time. Accordingly, the Committee should remind Iraq that its third periodic report was overdue, and insist upon receiving a special report on the implementation of articles 6, 7, 9 and 27 before its July session. He agreed that members of the Committee should not be precluded from putting questions to the State party on the subject of Kuwait, but felt that there should be no reference in the Committee's report which might give the appearance of legitimizing the Iraqi occupation of Kuwait.

26. The CHAIRMAN asked whether Mr. Dimitrijevic could put his suggestion in writing.

27. Mr. MAVROMMATIS said that there were three drawbacks to requesting a special report dealing with specific articles. First, the Committee would also have to ask for the regular report, so that it would not be deemed to have absolved the State party of its obligation in that regard. Secondly, the articles mentioned had not included article 1, which in his view was the most important of all, since it was from the denial of the right to self-determination that all the other human rights violations arose. Thirdly, by requesting a special report, the Committee incurred the risk of receiving no report at all. He therefore suggested that the draft decision should request the State party to submit its already overdue periodic report and to concentrate in particular on specific articles.

28. Mr. WENNERGREN suggested that the second part of the draft decision, after the words "at its next session in July 1991", should be amended as follows: "The Committee will be ready to accept a summary report that may be further developed at meetings in July. The Committee further requests that the report should contain information about the impact of events on the rights protected under the relevant articles of the Covenant, particularly articles 6, 7, 9 and 27". That, he hoped, would be an acceptable compromise.

29. Mr. PRADO VALLEJO said that, with minor changes, the draft decision proposed by the Chairman could be the basis of a consensus. He suggested that the first clause should remain unchanged, but that the second clause should read as follows: "further requests that the report should contain detailed information concerning the situation of human rights protected by the Covenant, and especially those guaranteed by articles 6, 7, 9 and 27 of the Covenant".

(Mr. Prado Vallejo)

30. If Iraq did not respond to that request by July 1991, the Committee should decide, nevertheless, to consider the situation concerning Iraq's implementation of the Covenant on the basis of the materials available.

31. Mr. HERNDL said that the Committee should request a special report on the current situation in Iraq, because the third periodic report would not cover the period for which the Committee was seeking information. The draft decision could be worded more forcefully, as follows: "further decides to request the Government of Iraq to submit information, in particular, on the extent to which articles 6, 7, 9 and 27 of the Covenant are currently protected".

32. Mrs. HIGGINS suggested that the proposal made by Mr. Dimitrijevic should be amended so that, after the words "at its next session in July 1991", it would read: "and in any event, to submit by June 1991 its report, in summary form, if necessary, as it relates to the application at the present time to all of its citizens of articles 6, 7, 9 and 27 of the Covenant".

33. Mr. AGUILAR said that he had doubts concerning the phrase "all of its citizens" and wondered whether it would be possible to say "all persons under its jurisdiction".

34. Ms. CHANET agreed with Mr. Aguilar's point, as most of the persons whose human rights were being violated in Iraq did not have Iraqi citizenship. She felt that Mr. Herndl's formulation would be preferable.

35. Mr. DIMITRIJEVIC said that he supported Mrs. Higgins' formulation, provided that the word "citizens" was not used. He also questioned the need for the words "in summary form, if necessary", as that might enable the State party to submit a very sketchy reply.

36. Mr. PRADO VALLEJO said that he agreed with the point just made by Mr. Dimitrijevic.

37. Mr. WENNERGREN said that what the State party put in writing was immaterial; the main thing was that its representatives should appear before the Committee in order to answer questions.

38. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the following decision:

"The Human Rights Committee,

"Noting that the third periodic report of Iraq was due for submission to the Committee on 4 April 1990;

(The Chairman)

"Taking into consideration recent and current events in Iraq affecting the situation of human rights under the International Covenant on Civil and Political Rights;

"Acting under article 40, paragraph 1 (b) of that Covenant;

"1. Decides to request the Government of Iraq to submit its third periodic report without further delay to be discussed by the Committee at its forty-second session in July 1991 and, in any event, to submit by 15 June 1991 its report, in summary form if necessary, as it relates in particular to the application at the present time of articles 6, 7, 9 and 27 of the Covenant;

"2. Requests the Secretary-General to bring this decision to the attention of the Government of Iraq".

39. It was so decided.

The meeting rose at 6.10 p.m.